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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 REINA WOOD-JIMENEZ,
8 Plaintiff,

9 v.

10 DMV,
11 Defendant.

Case No. 2:18-cv-02344-APG-DJA

ORDER

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13 Pro se plaintiff Reina Wood-Jimenez filed a Motion for Immediate Relief (ECF No. 33)
14 on September 23, 2019. It appears to be an argument she wishes to make during trial. As such,
15 the Court will deny it without prejudice given that it is not supported by points and authorities and
16 is not a proper motion for relief at this time.

17 Additionally, Defendant DMV filed a Motion to Stay Discovery (ECF No. 37) on
18 September 26, 2019. Plaintiff filed a Proposed Discovery Plan and Scheduling Order (ECF No.
19 38) on October 10, 2019, to which Defendant filed a Notice of Objection (ECF No. 41) on
20 October 15, 2019.

21 Courts have broad discretionary power to control discovery. *See, e.g., Little v. City of*
22 *Seattle*, 863 F.2d 681, 685 (9th Cir.1988). In deciding whether to grant a stay of discovery, the
23 Court is guided by the objectives of Rule 1 to ensure a just, speedy, and inexpensive
24 determination of every action. *See Kidneigh v. Tournament One Corp.*, 2013 WL 1855764, at *2
25 (D. Nev. May 1, 2013). “The Federal Rules of Civil Procedure do not provide for automatic or
26 blanket stays of discovery when a potentially dispositive motion is pending.” *Tradebay, LLC v.*
27 *eBay, Inc.*, 278 F.R.D. 597, 600 (D. Nev. 2011). However, preliminary issues such as
28 jurisdiction, venue, or immunity are common situations that may justify a stay. *See Twin City*

1 *Fire Ins. v. Employers of Wausau*, 124 F.R.D. 653 (D. Nev. 1989); *see also* *Kabo Tools Co. v.*
2 *Porauto Indus. Co.*, 2013 WL 5947138, at *1 (D. Nev. Oct. 31, 2013) (granting stay based on
3 alleged lack of personal jurisdiction); *Ministerio Roca Solida v. U.S. Dep’t of Fish & Wildlife*,
4 288 F.R.D. 500, 506 (D. Nev. 2013) (granting stay based in part on alleged lack of subject matter
5 jurisdiction). Further, motions to stay discovery pending resolution of a dispositive motion may
6 be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive
7 motion can be decided without additional discovery; and (3) the Court has taken a “preliminary
8 peek” at the merits of the potentially dispositive motion to evaluate the likelihood of dismissal.
9 *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).

10 A party seeking to stay discovery pending resolution of a potentially dispositive motion
11 bears the heavy burden of establishing that discovery should be stayed. *See, e.g., Turner*
12 *Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997) (noting that a
13 stay of discovery may be appropriate where the complaint was “utterly frivolous, or filed merely
14 for settlement value.”); *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975). When
15 deciding whether to issue a stay, a court must take a “preliminary peek” at the merits of the
16 dispositive motion pending in the case. *Tradebay*, 278 F.R.D. at 602-603. In doing so, a court
17 must consider whether the pending motion is potentially dispositive of the entire case, and
18 whether that motion can be decided without additional discovery. *Id.* This “preliminary peek” is
19 not intended to prejudge the outcome, but to evaluate the propriety of a stay of discovery “with
20 the goal of accomplishing the objectives of Rule 1.” *Id.* (citation omitted). That discovery may
21 involve inconvenience and expense is not sufficient, standing alone, to support a stay of
22 discovery. *Turner Broadcasting*, 175 F.R.D. at 556. An overly lenient standard for granting
23 requests to stay would result in unnecessary delay in many cases.

24 After taking a preliminary peek at the pending motion to dismiss (ECF No. 20), the Court
25 finds that Defendant has carried its heavy burden of establishing that discovery should be stayed.
26 The issues before the Court in the pending motion to dismiss do not require further discovery as
27 they have been fully briefed. Additionally, discovery is expensive and resolving issues of
28 immunity at the earliest possible stage of litigation is important. Further, the issues in pending

1 motion to dismiss are potentially dispositive of the entire case. The gravamen of Defendant's
2 motion to dismiss is that the DMV has Eleventh Amendment immunity, Plaintiff has not served
3 the head of the DMV, and Plaintiff is unable to state a claim for relief. The Court is not
4 convinced that Plaintiff will survive Defendant's jurisdictional and immunity challenges, but
5 notes, of course, that its view of "may be very different than how the assigned district judge will
6 see" the case. *AMC Fabrication, Inc. v. KRD Trucking W., Inc.*, 2012 WL 4846152, *4 (D. Nev.
7 Oct. 10, 2012). As such, the Court finds this is a case where a temporary stay of discovery will
8 further the goal of judicial economy.

9 IT IS HEREBY ORDERED that Plaintiff's Motion for Immediate Relief (ECF No. 33) **is**
10 **denied without prejudice.**

11 IT IS FURTHER ORDERED that Defendant's Motion to Stay Discovery (ECF No. 37) **is**
12 **granted.**

13 IT IS FURTHER ORDERED that in the event the motion to dismiss is not granted in full,
14 the parties shall file a stipulated proposed discovery plan and scheduling order no later than seven
15 days after a decision on the pending motion to dismiss (ECF No. 20) is issued by the Court.

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17 DATED: October 15, 2019

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20 DANIEL J. ALBREGTS
21 UNITED STATES MAGISTRATE JUDGE
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